MYSORE LEGISLATURE SALARIES (AMENDMENT) BILL, 1967

(Leave to Introduce.)

Sri S. S. SHETTAR (Hubli).—I rise to a point of order. The hon'ble member is not in his proper seat and he cannot move the motion sitting in this seat.

Mr. SPEAKER.—There is no point of order.

Sri S. BANGARAPPA (Sorab).—I rise to another point of order.

† Sri M. NAGAPPA BASAPPA (Raichur).—I rise to a point of order. Rule 311(1) states that a point of order shall relate to the interpretation or enforcement of these rules...Then I refer you to rule 4 which says that "the members shall sit in such order as the Speaker may determine." Then I refer to rule 285 (vii) which says that a member shall keep to his usual seat while addressing the Assembly."

Then I refer to rule 287 which says "a member desiring to make any observations on any matter before the Assembly shall speak from his place, shall rise when he speaks and shall address the Speaker." So I submit the hon'ble member Sri Siddaiah Kashimath is contravening the procedure laid down because he is not in his proper seat as shown by the Chart.

Mr. SPEAKER.—Several members have been sitting like that. In the first instance I was insisting on that because I did not know their names. By this time I have picked up some of the names.

Sri SIDDAIAH KASHIMATH (Shirahatti).—From the beginning, I am sitting here.

Sri H. SIDDAVEERAPPA.—Seats have already been fixed. Can I go and occupy the seat of the Chief Minister ?

Mr. SPEAKER.—I do not think that any time should be spent on this. Anyhow I will look into it and then give a ruling.

(Sri Siddaiah Kashimath rose).

Sri K. H. PATIL.—When once a point of order is raised before you for consideration, the matter before the House should not be proceeded with, without the ruling being given.

Mr. SPEAKER.—Which rule is that ? Which is the rule which says that unless the ruling is given on the point of order, no work can be transacted ?

Sri K. H. PATIL.—I beg to submit that it is not that everything is mentioned in the rules. Where there is no specific rule we have to be guided by our common sense. That is why I am submitting to you that everything is not incorporated in the rules and we have to be guided by commonsense. When a rule is violated and it is specifically brought to your notice through a point of order, it is the duty of the Speaker to rectify that first and until then the matter before the House should not be proceeded with.

Sri M. NAGAPPA BASAPPA.—My contention is with regard to the violation of the rules. If the finding is postponed that means we are allowing the member who has contravened the rules to do so. So first the ruling may be given and then further business may be taken up.

Sri SIDDAIAH KASHIMATH.—Please excuse me, Sir, Please permit me to move from this seat to my seat.

(*Sri Siddaiah Kashimath then moved to the seat allotted to him*).

Mr. SPEAKER.—A point has been raised by Sri K.H. Patil that the rules are not exhaustive. He started his point relying on the commodity of commonsense. As the House is aware, many times rulings have been postponed. Even today I delivered a ruling on a postponed point of order. Where was this commodity of commonsense then ? With regard to a point of order, noboday can compel the Speaker to give a ruling at a particular moment. It is within the discretion of the Speaker when to give the ruling.

Sri M. S. KRISHNAN.—We know that you have abundant commonsense to give the ruling on the spot.

Mr. SPEAKER.—But the member seems to think that I have lost that commodity of commonsense.

Sri SIDDAIAH KASHIMATH.—Sir, I beg leave.....

Sri H. SIDDAVEERAPPA.—I am raising a point of order, Sir.

(*Several members rose in their seats.*)

Mr. SPEAKER.—Let us not get excited.

Sri H. SIDDAVEERAPPA.—Sir, I am moving a Point of Order.

Mr. SPEAKER.—I have not heard anything like moving a point of order ; I have heard like raising a point of order !

Sri H. SIDDAVEERAPPA.—Here, the meaning of raising a point of order will have to be imported.

Mr. SPEAKER.—We today think of exporting and not importing.

(*Laughter*)

Sri H. SIDDAVEERAPPA.—Sir, when this motion was brought before the House tabled in the name of the Hon'ble Member, on that day we had no occasion to raise a further Point of Order, because on that Point of Order the whole thing was postponed for consideration. I would invite your kind attention to Rule 65 (2). It says :

> " The period of notice of a motion for leave to introduce a Bill under this rule shall be fifteen clear days unless the Speaker allows the motion to be made at shorter notice."

I request the Chair to inform whether the Chair is prepared to waive that notice of 15 days, and if so, what are the compelling circumstances.

Of course, we do not either criticise or commend on the power vested in you to waive that period of notice. The only point for consideration is, Heavens will not fall on us if that period of notice is not waived, but it may mean to say that there is an intention on the part of the mover of this motion that the matter may be hustled through during this Session only. There is no point in hustling through in a measure like this. Therefore, I say that under Rule 65 (2) there is no clear 15 days notice given. I am appealing to you, Sir, not to use the discretion vested in you in the larger interest of the public finances of the State.

Then, I invite your kind attention to Rule 67, Whether the Governor's consent is taken or not, I need not refer to it and waste the time of the House. Rule 71 clearly says :—

> " If a motion for leave to introduce a Bill is opposed, the Speaker, after permitting, if he thinks fit, a brief explanatory statement from the member who moves and from the member who opposes the motion may, without further debate, put the question :
>
> Provided that where a motion is opposed on the ground that the Bill initiates legislation outside the legislative competence of the Assembly, the Speaker may permit a full discussion thereon. "

Sir, my contention and submission is that this motion, which the Hon'ble Member wants to move now, is outside the legislative competence for the simple reason that I am now going to quote. I refer to the provisions in the Constitution. That is our *magna carta* so far as financial matters are concerned. Sir, I refer to Articles 199 and 207 conjointly. Article 199 clearly says what a money Bill means. The very words given are : ' definition of money bills'. It reads as follows :—

> " (1) For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely—
>
> (a) the imposition, abolition, remission, alteration or regulation of any tax ;
>
> (b) the regulation of the borrowing of money or the giving of any guarantee by the State, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the State ;
>
> (c) the custody of the Consolidated Fund or the Contingency Fund of the State, the payment of moneys into or the withdrawal of moneys from any such Fund ;
>
> (*This is under consideration now*).
>
> (d) the appropriation of moneys out of the Consolidated Fund of the State ;

(SRI H. SIDDAVEERAPPA)

(*This also comes into the picture*).

(e) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of the State, or the increasing of the amount of any such expenditure ;

(*This does not arise*).

(f) the receipt of money on account of the Consolidated Fund of the State or the public account of the State or the custody or issue of such money ; or

(g) any matter incidental to any of the matters specified in sub-clauses (a) to (f).

(2) A Bill shall not be deemed to be a Money Bill by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) If any question arises whether a Bill introduced in the Legislature of a State which has a Legislative Council is a Money Bill or not, the decision of the Speaker of the Legislative Assembly of such State thereon shall be final.

(4) There shall be endorsed on every Money Bill when it is transmitted to the Legislative Council under article 198, and when it is presented to the Governor for assent under article 200, the certificate of the Speaker of the Legislative Assembly signed by him that it is a Money Bill."

Sir, very carefully, all the provisions that are required in dealing with financial measures have been put into and incorporated in article 199.

Then, I refer to Article 207. It clearly says :—

SPECIAL PROVISIONS AS TO FINANCIAL BILLS.

"(1) A Bill or amendment making provision for any of the matters specified in sub-clauses (a) to (f) of clause (1) of article 199 shall not be introduced or moved except on the recommendation of the Governor, and a Bill making such provision shall not be introduced in a Legislative Council :

Provided that no recommendation shall be required under this clause for the moving of an amendment making provision for the reduction or abolition of any tax.

(2) A Bill or amendment shall not be deemed to make provision for any of the matters aforesaid by reason only that it

provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of a State shall not be passed by a House of the Legislature of the State unless the Governor has recommended to that House the consideration of the Bill."

The point really I would make out from this is, in all matters where the finances of the State are involved, it is only the Treasury Benches that have a right to introduce a Bill, which has the right of taxing or burdening the State with extra funds. But, if it is meant for a reduction of any tax or expenditure, we can do it on this side. If it means imposition of any additional expenditure, it should come only from the Treasury Benches and no non-official member of this House can have a right to introduce a Bill wherein additional taxes or finances are involved which will be distributed from the Consolidated Fund of the State. This is my Point of Order and I want your Ruling on this point. I do not want any amendment of the Constitution; I want that it should be strictly adhered to. If it is through the Minister for Parliamentary Affairs, it would be all right.

Sri S. D. KOTHAVALE (Sankeshwar).—It can be introduced by any member of this House.

Sri H. SIDDAVEERAPPA.—Sir, the hon'ble member has not applied his mind. I have great respect for his legal acumen. I want him to examine it.

Supposing I want the salary equal to that of a Minister. I want to know whether such provision is permissible to be introduced. It is a money bill. Money matters should be moved only by the Government, and it is the exclusive right of the Treasury Bench.

Sri S. R. KANTHI (Minister for Law).—The interpretation to Articles 199 and 207 as interpreted by Mr. Siddaveerappa is not correct. His contention that money bill should be brought only by the Treasury Bench is not correct.

†Sri K. H. RANGANATH (Mudigere).—My point of order is that the provision of Rule 67 has not been complied with. The rule says:

"If the Bill is a Bill which under the Constitution cannot be introduced without the previous sanction or recommendation of the Governor, the member shall annex to the notice such sanction or recommendation conveyed through a Minister and the notice shall not be valid until this requirement is complied with."

(SRI K. H. RANGANATH)

Therefore the member has not annexed to his notice the required Governor's assent and further I do not know anything in the Bill whether the recommendation is obtained or not. Unless and until the sanction or the recommendation of the Governor is obtained, the notice shall not be valid. Further, Sub-Rule (2) under Rule 65 says :

> "The period of notice of a motion for leave to introduce a Bill under this rule shall be fifteen clear days unless the Speaker allows the motion to be made at shorter notice."

I do not know whether the Hon'ble Member gave a notice to the Bill and whether clear 15 days have elapsed and if it is not allowed, the Speaker has to use his discretion under the rule to allow a member to introduce. Under these circumstances, the member is not empowered to introduce the Bill under Rule 67 as he has not fulfilled all the provisions contained under Rule 65.

SRI K. H. PATIL.—I support what has been stated by our learned friend Sri Siddaveerappa. Article 207 clearly says :

> "That a Bill or amendment making provision for any of the matters specified in Sub-clauses (a) to (f) of clause (1) of Article 199 shall not be introduced or moved except on the recommendation of the Governor."

Clear 15 days have not elapsed on 19th July 1967 as per sub-rule (2), Rule 65.

SPEAKER'S RULING *Re* : INTRODUCTION OF THE MYSORE LEGISLATURE SALARIES (AMENDMENT) BILL, 1967

MR. SPEAKER.—A point of order was raised as to whether the Hon'ble Sri Siddiah Kashimath is competent to introduce this Bill in this House. Various aspects were urged. Mr. Siddaveerappa first of all contended that so far as the introduction of the Bill is concerned, a period of 15 days notice has to be given unless the Speaker exercise his discretion to permit its introduction earlier than that, and further he went on saying that the Speaker should give the reasons for exercising his discretion. At a later stage, he has however stated that they cannot understand the discretion of the Speaker though the discretion of the Speaker cannot be questioned. This Bill is an amending Bill and matters covered by that are within the cognisance of the House and the members should have full scope to discuss this because it is a question of enhancing the emoluments. I am not concerned with the introduction or discussion. It will be passed if it is accepted by the majority in full accordance with the provisions of the rules. The House also remembers that it